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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/634,204

08/05/2003

Kim Marie Clark

WOOK102

6832

7590 05/07/2007  
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EXAMINER

AHMAD, NASSER

ART UNIT

PAPER NUMBER

1772

MAIL DATE

DELIVERY MODE

05/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/634,204

**Applicant(s)**

CLARK, KIM MARIE

**Examiner**

Nasser Ahmad

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/5/2007 has been entered.

### ***Rejections Withdrawn***

2. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackburn (5190533) made in the Office Action of 4/13/2006 has been withdrawn in view of the amendment filed on 3/5/2007.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-3, 5-10 and 20 are have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-9 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackburn (5190533).

Blackburn relates a cover device comprising a lengthwise strip of fabric (28) (col. 6, lines 32-34) having a rectangular structure as is well known in the diaper area and as shown in figure-1, a first and second elastic strips (35, 35') are hemmed along the first and second lengthwise edge of the fabric with a gathered configuration (col. 6, lines 46-49), a strip of pressure sensitive adhesive tab (39) is adhered to said strip of fabric substantially along said first lengthwise edge and a liner (39b) releasably covers said adhesive surface (39a) (col. 6, lines 49-53).

The preamble recitation "A cord cover" has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory phrase. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

The intended use phrases such as "for use in enveloping a linear object such as a cord, chandelier chain or pipe", "said liner selectively removable from said fastening side of said transfer tape to thereby allow said fastening side of said transfer tape to be selectively adhered to said exterior side of said fabric substantially along said exterior side of said strip of fabric substantially along said second lengthwise edge so that said first and second lengthwise edges overlap one another and are aligned generally parallel to one another to thereby form a tubular configuration for enveloping the linear object, said tubular configuration having first open end formed along said first

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lengthwise edge and a second open end formed along said second lengthwise edge ", etc. have not been given any patentable weight because said phrases are not found to be of positive limitations.

For claim 2, the adhesive tab is reusable a limited number of times because it adheres to a reusable surface. Further, it is well known in the diaper art to use reusable adhesive tabs as evidenced by Rogers (USP 5569229, in col. 3, lines 5-10).

For claim 3, figure-1, shows that the adhesive tape is discontinuous.

As for claim 5, the intended use phrases such "for use in enveloping a linear object such as a cord, chandelier chain or pipe", "said pressure sensitive adhesive to be selectively adhered to said exterior side of said fabric substantially along said exterior side of said strip of fabric substantially along said second lengthwise edge so that said first and second lengthwise edges overlap one another and are aligned generally parallel to one another to thereby form a tubular configuration for enveloping the linear object, said tubular configuration having first open end formed along said first lengthwise edge and a second open end formed along said second lengthwise edge ", etc. have not been given any patentable weight because said phrases are not found to be of positive limitations.

For claim 6, the adhesive is a transfer tape as it is adhered to the fabric surface.

Regarding claim 7, the transfer tape has a removable liner (39b) on said fastening side to thereby assist in preserving adhesive properties of said pressure sensitive adhesive.

For claim 8, the explanation provide for claim 2 applies herein too.

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Similarly, for claim 9, applicant is directed to the explanation provide for claim 3 hereinabove.

As for claim 20, the fabric in /Blackburn is shown to be generally rectangular as shown in figure-1.

The intended use phrases such as "for use in enveloping a linear object such as a cord, chandelier chain or pipe", "said liner selectively removable from said fastening side of said transfer tape to thereby allow said fastening side of said transfer tape to be selectively adhered to said exterior side of said fabric substantially along said exterior side of said strip of fabric substantially along said second lengthwise edge so that said first and second lengthwise edges overlap one another and are aligned generally parallel to one another to thereby form a tubular configuration for enveloping the linear object, said tubular configuration having first open end formed along said first lengthwise edge and a second open end formed along said second lengthwise edge ", etc. have not been given any patentable weight because said phrases are not found to be of positive limitations.

### ***Response to Arguments***

6. Applicant's arguments filed 3/5/2007 have been fully considered but they are not persuasive.

In response to applicants' arguments in item#8, applicant is directed to Blackburn wherein it is shown, in figure-1 shows the presence of a pressure sensitive adhesive positioned substantially along the lengthwise edge. As for the intended use languages

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such as "to be selectively adhered", "to generally form a tubular configuration for enveloping", etc. are not found to be of positive limitations and hence, have not been given any patentable weight.

Regarding applicant's argument in item#10 and #11, applicant is informed that when the edges are brought back together upon themselves to form leg holes and not result in a tubular/cylindrical structure, is also not found to be of positive limitation because it is directed to an intended future use of the claimed product structure.

As for the argument in item#12, applicant should note that the Blackburn reference does anticipate the product structure, as claimed and as explained in the rejection provided herein above. For items 12(b)(1)-(4), it is directed to an intend use of the claimed structure as acknowledged by the applicant.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Nasser Ahmad 5/2/07  
Primary Examiner  
Art Unit 1772

N. Ahmad.  
May 2, 2007.